

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ROBIN BUCHHEIT and )  
GARY BUCHHEIT, )  
Plaintiffs, )  
vs. ) Cause No. 4:09-CV-00652-CAS  
ASHLEY FURNITURE )  
INDUSTRIES, INC., )  
Defendant. )

**JOINT APPLICATION FOR APPROVAL OF WRONGFUL DEATH SETTLEMENT**

Plaintiffs Robin Buchheit and Gary Buchheit, as the surviving parents of decedent Ryan Buchheit (“Plaintiffs”), pursuant to the provisions of the Missouri Wrongful Death Act (Mo. Rev. Stat. § 537.080, *et seq.*), make written application to the Court to approve the wrongful death settlement reached in the above captioned and numbered cause, and state as follows:

1. Plaintiffs have filed this action against Ashley Furniture Industries, Inc. (“Defendant”) pertaining to the death of Ryan Buchheit, who died on or about October, 17, 2008 in Franklin County, Missouri.

2. Plaintiffs represent that they are the natural parents of the decedent Ryan Buchheit, and that they are proper parties to claim, sue for and collect damages caused by the death of Ryan Buchheit under Mo. Rev. Stat. § 537.080. Plaintiffs are entitled to share and participate in the proceeds herein, and have agreed to the settlement as outlined herein and to the apportionment of said proceeds as set forth in their Affidavits. See Plaintiffs’ Affidavits, which are attached hereto as Exhibits 1 and 2. Further, Plaintiffs represent and Defendant relies on the

representation that there are no other living relatives or persons having a cause of action under Mo. Rev. Stat. § 537.080.

3. Plaintiffs believe they have a meritorious cause of action against Defendant.

4. Defendant denies any and all liability to Plaintiffs regarding the death of the decedent and for the claims asserted herein.

5. Plaintiffs have negotiated a compromised settlement of their claims with Defendant for a confidential sum, the terms of which will be made available to the Court for *in camera* review at the hearing approving the settlement.

6. Plaintiffs, with the advice of counsel, have investigated fully the facts and circumstances with reference to the incident involving the death of the decedent. Plaintiffs are of the opinion that it is, and will be, in the best interests of Plaintiffs to fully settle their claims against Defendant, subject to the approval of the Court.

7. Defendant Ashley Furniture Industries, Inc. will pay a confidential sum to Plaintiffs, which was agreed to on March 16, 2010, in full and complete settlement of all claims, demands, and damages pertaining to Plaintiffs and Plaintiffs' decedent, whether known or unknown, accrued or accruing, which said Plaintiffs now have against Defendant Ashley Furniture Industries, Inc., and its servants, agents, employees, attorneys, insurers, successors, assigns, divisions, subsidiaries, affiliates, parent companies, related companies, representatives, administrators, and any other persons or entities who are or might be liable through or in connection with Defendant or on behalf of Defendant, including but not limited to Liberty Mutual Insurance Company, Waussau Underwriters Insurance Company, CNA Insurance Company, and Continental Casualty Company, by reason of injuries sustained or to be sustained

by said decedent and Plaintiffs as a result of the aforementioned occurrence on or about October, 17, 2008.

8. That pursuant to Mo. Rev. Stat. § 537.095, Plaintiffs shall collect and receive a confidential sum from Defendant Ashley Furniture Industries, Inc., in complete and full settlement of their claims, minus their attorney fees, expenses, and costs. The terms of the aforementioned settlement are set forth as follows:

- a. Each party to bear their own costs and attorneys' fees in this matter.
- b. The law firm of Brown & Crouppen, P.C. was lawfully employed and retained to represent Plaintiffs on their said claims, and the written engagement agreement provides for the payment of a 40% percent contingency fee based on the gross settlement proceeds recovered in the preparation and prosecution of the claims, plus expenses and costs. The law firm has in fact represented Plaintiffs, and attorneys' fees to be awarded by the Court at the said approval hearing shall be deducted from the settlement and paid to Brown & Crouppen, P.C., as attorneys' fees in this matter, as well as the sum of \$ 98,243.71 for expenses and costs.
- c. That the net proceeds shall be paid over to Plaintiffs in an amount to be approved by the Court at the approval hearing.

9. Plaintiffs shall be solely responsible for any outstanding and medical bills and any other expenses or liens in this matter.

10. That as a condition precedent to the proposed settlement of Plaintiffs' claims, a release is required to be executed and delivered completely releasing Defendant Ashley Furniture Industries, Inc., and its their servants, agents, employees, attorneys, insurers, successors, assigns, divisions, subsidiaries, affiliates, parent companies, related companies, representatives,

administrators, and any other persons or entities who are or might be liable through Defendant or on behalf of Defendant, including but not limited to Liberty Mutual Insurance Company, Waussau Underwriters Insurance Company, CNA Insurance Company, and Continental Casualty Company, from all liability, claims, damages and demands, whether known or unknown, accrued or accruing, resulting from the aforesaid accident, or from any injuries sustained or to be sustained by Plaintiffs and Plaintiffs' decedent, or from any other matter or thing connected herewith or flowing therefrom.

11. That as a condition subsequent, upon receipt of the settlement amounts herein described, Plaintiffs will cause a stipulation for dismissal with prejudice, satisfaction of judgment, and receipt of attorneys' fees, executed and filed with the Court, in above Paragraph 8(b).

12. Plaintiffs are aware of and consent to this confidential settlement. See Plaintiffs' Affidavits, Exhibits 1 and 2.

13. That Plaintiffs acknowledge that they have the right to a trial by judge and jury in this matter, at which time Plaintiffs could receive more than the amount of this settlement, less than the amount of this settlement, or nothing at all, and that by settling this claim as outlined above, right to a trial by judge or jury has been expressly waived.

14. That the settlement entered into between Plaintiffs and Defendant is in good faith and is in the best interests of Plaintiffs.

**WHEREFORE**, Plaintiffs Robin Buchheit and Gary Buchheit, as the surviving parents of decedent Ryan Buchheit, and Defendant Ashley Furniture Industries, Inc., pray that this Court hear evidence on the merits of the claim, find that the best interests of Plaintiffs would be served

by the proposed settlement, approve this Application for Approval of Settlement and enter Judgment in this cause pursuant to the terms of this application.

Respectfully submitted,

/s/ Andrea McNairy

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